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act of the perpetrator results in the fetus being damaged in utero. It goes to term and when it is born it becomes not an it but a who, and this who has no ability to function mentally and the parents decide to put this now born child on a respirator and, with the assistance of the respirator, the child breathes, the child flourishes physically and grows stronger. They take the respirator off and the child continues to breathe on his or her own, and the child grows older and larger and eventually dies, and the death can be traced directly to that act which was committed while the child was in the womb, and let's say five years elapse. Under this bill, a charge of first-degree murder could still be brought. Isn't that true?

SENATOR FOLEY: I think that's a rather farfetched scenario, Senator.

SENATOR CHAMBERS: Well, your...your definition is farfetched, but we're talking about from the language of the bill. Based on the language of the bill that could happen, couldn't it?

SENATOR FOLEY: I'm not sure that it could.

SENATOR CHAMBERS: What...what about it do you think could not happen?

SENATOR FOLEY: Because of the burden of proof that would rest with the prosecutor to prove beyond a reasonable doubt that the criminal act resulted in the death of the child.

SENATOR CHAMBERS: If a prosecutor believes that, based on this bill the prosecutor can bring the charge of first-degree murder. Isn't that true? All the prosecutor has to do is believe it.

SENATOR FOLEY: I'm not...I'm not sure...I'm not sure I could conjure up a set of facts that would...that would provide for that under the...under the hypothetical that you've set forth.

SENATOR CHAMBERS: Thank you, Senator Foley. Members of the Legislature, every time a prosecutor charges somebody with first-degree murder does not result in a conviction of first-degree murder. Sometimes harassing charges are filed,